



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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# BZA Staff Report

**To:** Board of Zoning Appeals Members

**From:** Alex Getchell, Associate Planner

**Date:** May 27, 2016

**Re:** Cases ZB 2016-09 (V) | Amanda Peters | 600 S. Main Street

### REQUESTS:

**Case ZB 2016-09 (V)...600 S. Main Street.** A request for consideration of a development standards variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 15, to allow a fence six feet in height in a front yard, in the RTN: Residential, Traditional Neighborhood zoning district. The property is located at 600 S. Main Street, which is on the southwest corner of S. Main Street and Pitt Street.

### PURPOSE OF STANDARD:

The "RTN," Residential: Traditional Neighborhood zoning district is intended to ensure the continued viability of the traditional-style neighborhoods in existence on the effective date of the Zoning Ordinance (May 10, 2004). This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

### CONSIDERATIONS:

#### Variance Request

1. Amanda Peters, Petitioner, is requesting approval to install a fence, six (6) feet in height, in a front yard, up to the property / right-of-way line. [Exhibit A: Proposed Fence Map]
2. According to the petitioner, the fence would enclose the entire "back" yard up to the property lines. The fence would start at the northwest corner of the home, then go north to the property line abutting the Pitt Street right-of-way, then continue along said right-of-way line to the northwest property corner, where it would then turn south to the southwest property corner, then continuing along the south property line to a point in line with the back (west) wall of the home, where the fence would turn north and terminate at the southwest corner of the home.
3. According to the City of Franklin Zoning Ordinance, Article 7, Chapter 15, [Figure 1: Fence Heights] residential fences are permitted up to three (3) feet in height in any front yard, and up to six (6) feet in height in any side or rear yard. For the purposes of the fence height requirement, the front yard is defined as "the area located between an adjacent street and the wall of the primary structure that faces it." Corner lots have two "front yards."

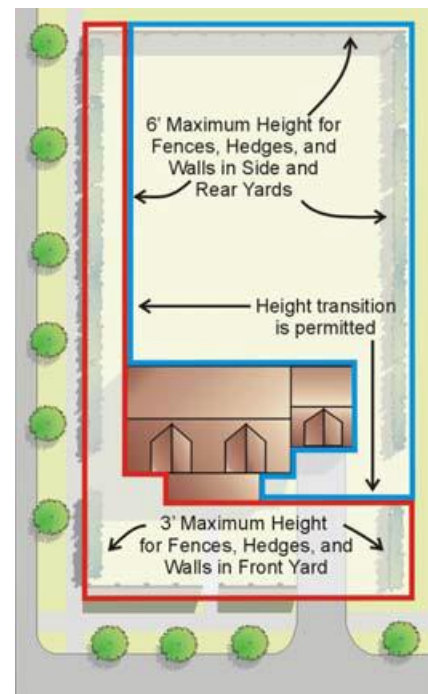


Figure 1: Fence Heights

### **Comprehensive Plan & Zoning Ordinance**

4. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Core Residential. “The core residential areas of Franklin are those which are immediately adjacent to the downtown. These neighborhoods feature a majority of Franklin’s historically significant homes. Land uses in these areas should be dominated by a diversity of single-family homes, and also include neighborhood-scale churches and schools. Historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated.”
5. The 2013 Franklin Comprehensive Plan, Land Use Plan, also addresses the land use relationships for Core Residential areas: “The most significant land use relationships in this area are between the area’s residential and non-residential uses, and between the area as a whole and the downtown. The area’s mixed uses should continue to support the human-scale features and walkability of the neighborhood. Uses of all types should be of a scale and setback that contribute positively to the character of the area. The strong pedestrian connections to the downtown provided by the area’s sidewalks should be maintained and enhanced. Any redevelopment, infill construction, or renovation in these areas should respect and support their unique character. Elements of that character include vehicle access provided by alleys, front porches and small front yard setbacks, street trees, and a diversity of housing styles and sizes.”
6. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one’s ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
7. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
8. The surrounding zoning and land uses are as follows:

<b>Surrounding Zoning:</b>	<b>Surrounding Land Use:</b>
North: RTN: Residential, Traditional Neighborhood	North: Multi-family Residential
South: RTN: Residential, Traditional Neighborhood	South: Single-family Residential
East: RTN: Residential, Traditional Neighborhood	East: Single-family Residential
West: RTN: Residential, Traditional Neighborhood	West: Single-family Residential

### **CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:**

#### **(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

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## **DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES**

- 1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

### **Staff Finding:**

Staff finds the approval of the proposed variance, to allow a fence six (6) feet in height up to the south right-of-way line of Pitt Street, will not be injurious to the public health, safety or general welfare of the community. According to the Plat of Crim's Addition to the City of Franklin, Pitt Street has a 50 foot wide right-of-way. As such, and with the construction of Pitt Street, there is approximately 18 feet between the south edge of pavement and the north lot line of the subject property. Additionally, the petitioner is proposing the fence to be constructed no closer to the S. Main St. and Pitt St. intersection, than the western most (back) wall of her residence, so the fence will not obstruct the visibility of motorists navigating the Pitt Street / S. Main Street intersection. Moreover, no sidewalks are present along either side of Pitt Street and the property is bordered by an alley to the west; therefore, the proposed fence would not crowd any pedestrian walkway or adjacent property.

- 2. Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

### **Staff Finding:**

Staff finds that the use and value of adjacent properties will not be affected in a substantially adverse manner. The subject property is located on a corner lot and is bordered by an alley to the west. Permitting the petitioner to construct a fence approximately 11 feet closer to Pitt Street, than otherwise would be allowed, will not crowd or obstruct the use of any other property.

- 3. Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

### **Staff Finding:**

Staff finds the strict application of the ordinance will result in a practical difficulty, as many homes and accessory structures in the neighborhood are constructed as close, or closer, to the edge of pavement than the fence the petitioner is proposing. Additionally, since the fence would not crowd or obstruct the use of any adjoining property, sidewalk, or street, it is not practical to strictly require the fence be either three (3) feet in height or setback an additional eleven (11) feet.

## **STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

Based on the written findings above, staff recommends **approval** of the petition with the following conditions:

- a. A fence six (6) feet in height shall be permitted up to the north property line, as shown on the site plan dated May 26, 2016.
- b. No portion of the fence shall be located within the right-of-way of the City of Franklin.